IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

Crl.MC.No. 2913 of 2007()

CP.37/2007 of

.....

PETITIONER: ACCUSED

MOHANAN, S/O.CHERUKUTTY, CHARUVILA
VEEDU, MUKKATTUKUNNU, EDAVATTOM,
CHIRAKKARA P.O.

BY ADV. SRI.G.BHAGAVAT SINGH

RESPONDENTS: PETITIONER

S.I OF POLICE, PARIPPALLY POLICE STATION
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
(CRIME NO.198/99 OF PARIPPALLY POLICE STATION &
C.P.NO.37/2007 OF MUNSIFF MAGISTRATE COURT,
PARAVUR).

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2913 of 2007

Dated this the 25th day of September 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 55a of the Kerala Abkari Act. Investigation is now complete. Final report has been filed. Cognizance has been taken. Committal proceedings has been registered. The petitioner has not entered appearance so far. He has not been enlarged on bail. According to the petitioner, he had no knowledge of the proceedings at all. After cognizance was taken, the petitioner had entered appearance through a counsel. Time was granted to him for appearance.

2. According to the learned counsel for the petitioner, he is absolutely innocent. His failure to appear and claim bail earlier was not wilful or deliberate. He had no knowledge of the proceedings at all. The petitioner is willing to appear before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. According to the petitioner, summons was issued by the learned Magistrate to him to appear and when he appears, the learned Magistrate must consider his application for bail on merits.

3. I am in agreement with the learned counsel for the petitioner that if the petitioner appears in response to the summons received by him and applies for bail, the learned Magistrate has got to consider his application for bail on merits, in accordance with law and expeditiously. He must consider such application in accordance with the dictum in Sukumari v. State of Kerala [2001(1) KLT 22] and Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is allowed in part. It is directed that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself in accordance with the decisions referred above.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007